

## FIFTY-THIRD DAY.

Senate Chamber,  
Austin, Texas,  
Tuesday, March 19, 1907.

Senate met pursuant to adjournment.  
Lieutenant Governor A. B. Davidson  
in the chair.

Roll call, quorum present, the follow-  
ing answering to their names:

Alexander.	Kellie.
Barrett.	Looney.
Brachfield.	Masterson.
Chambers.	Mayfield.
Cunningham.	Meachum.
Faust.	Murray.
Glasscock.	Senter.
Green.	Skinner.
Griggs.	Smith.
Grinnan.	Stone.
Harbison.	Terrell.
Harper.	Watson.
Holsey.	Willacy.
Hudspeth.	

Absent.

Stokes.

Absent—Excused.

Greer.	Veale.
Paulus.	

Prayer by the Chaplain Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Alexander, the same was dispensed with. (See Appendix for committee reports, petitions and memorials.)

(Senator Stone presiding.)

## BILLS AND RESOLUTIONS.

By Senator Senter:

Senate bill No. 290, A bill to be entitled "An Act to amend an act entitled 'An Act to create a more efficient road system for Dallas county, Texas,' passed by the Twenty-ninth Legislature, and declaring an emergency."

Read first time, and referred to Committee on Roads, Bridges and Ferries.

By Senator Murray:

Senate bill No. 291, A bill to be entitled "An Act to amend Title LX, Chapter 2, of the Revised Civil Statutes of Texas, by adding thereto Article 3125a, defining the terms 'canal,' 'lateral' and 'land adjoining or contiguous,' as used in Article 3125 of said chapter, and by adding Articles 3130a and 3130b, defining the extent of the lien for water rent provided for in Article 3130 of said chapter in favor of the person, corporation or association of

persons leasing or renting water for irrigation, and regulating its enforcement."

Read first time, and referred to Committee on Mining and Irrigation.

By Senator Skinner:

Senate bill No. 292, A bill to be entitled "An Act to provide a way and means by which the mayor and city council and qualified voters of any city existing and being under a special charter in the State of Texas may amend its charter, and providing for the ratification of such charter by the qualified voters of such city, and prescribing the manner in which such charter shall be recorded and its force and effect, with an emergency."

Read first time, and referred to Committee on Towns and City Corporations.

By Senator Willacy:

Senate bill No. 293, A bill to be entitled "An Act providing for the sale of lands constituting portions of the public domain of this State and situate upon Mustang Island, and for the patenting thereof; providing for the appraisalment of the value of such lands; adopting with reference to such sales the provisions of existing laws concerning the sale of school lands, in so far as they are applicable; prohibiting for six months the leasing of such lands, and providing that all leases thereafter made shall be made subject to sale, providing for the disposition of proceeds of sale of such lands, and declaring an emergency."

Read first time, and referred to Committee on Public Lands and Land Office.

## SIMPLE RESOLUTION.

By Senator Chambers:

Whereas, The Committee to whom was referred Robertson insurance bill has failed to make a report on same to this body, although they have had sufficient time and have heard same discussed thoroughly; and

Whereas, Said bill is of vast importance to the people of Texas; therefore, be it

Resolved by the Senate of the State of Texas, That said bill be recalled from said Committee on Insurance, Statistics and History and be referred to a committee who will make a report thereon.

The resolution was read and laid on the table subject to call.

Morning call concluded.

## EXCUSED.

On motion of Senator Terrell, Mr. Hayes, Calendar Clerk, was excused from attendance upon the Senate indefinitely on account of sickness.

(Lieutenant Governor Davidson in the chair.)

## SENATE BILL NO. 50.

The unfinished business from yesterday was Senate bill No. 22, and the Chair so stated, and

Senator Mayfield called up Senate bill No. 50, which was laid on the table subject to call.

The Chair laid before the Senate, on second reading,

Senate bill No. 50, A bill to be entitled "An Act making it unlawful to deal in futures, post or publish future quotations, permit the use of property for such purposes, furnish telegraph or telephone messages relative to futures, permit telegraph or telephone wires, instruments or equipments to be used for transmitting or receiving such messages, or to remain in any place where such business is transacted and defining such offenses and prescribing penalties therefor and procedure in trials of such offenses, and to prohibit by writs of injunction the use of any property by any buyer and seller or broker who violates the provisions of this act."

## ADOPTION OF CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 8.

Senator Looney here called up, as a privileged matter, the Conference Committee report on Senate bill No. 8—the Anti-Free Pass bill.

Senator Looney moved the adoption of the report, and

Senator Senter moved that further consideration of the report be postponed until tomorrow morning at the conclusion of the morning call.

Senator Chambers moved to table the motion to postpone, which motion to table was adopted by the following vote:

Yeas—18.

Alexander.	Grinnan.
Barrett.	Harbison.
Brachfield.	Harper.
Chambers.	Holsey.
Cunningham.	Looney.
Glasscock.	Masterson.
Green.	Mayfield.

Murray.  
Skinner.

Smith.  
Terrell.

Nays—9.

Faust.  
Griggs.  
Hudspeth.  
Kellie.  
Meachum.

Senter.  
Stone.  
Watson.  
Willacy.

Absent.

Stokes.

Absent—Excused.

Greer.  
Paulus.

Veale.

The question recurred on the adoption of the report, and

Senator Hudspeth moved, as a substitute motion, that the Senate do not adopt the Conference Committee report, and ask for a Free Conference Committee.

Senator Looney moved to table the substitute motion, which motion to table was adopted by the following vote:

Yeas—21.

Alexander.  
Barrett.  
Brachfield.  
Chambers.  
Cunningham.  
Glasscock.  
Green.  
Grinnan.  
Harbison.  
Harper.  
Holsey.

Looney.  
Masterson.  
Mayfield.  
Meachum.  
Murray.  
Senter.  
Skinner.  
Smith.  
Terrell.  
Willacy.

Nays—6.

Faust.  
Griggs.  
Hudspeth.

Kellie.  
Stone.  
Watson.

Absent.

Stokes.

Absent—Excused.

Greer.  
Paulus.

Veale.

Question then recurred on the motion by Senator Looney to adopt the report, which motion was adopted by the following vote:

Yeas—23.

Alexander.  
Barrett.  
Brachfield.  
Chambers.  
Cunningham.

Faust.  
Glasscock.  
Green.  
Griggs.  
Grinnan.

Harbison.	Murray.
Harper.	Senter.
Holsey.	Skinner.
Looney.	Smith.
Masterson.	Terrell.
Mayfield.	Willacy.
Meachum.	

Nays—4.

Hudspeth.	Stone.
Kellie.	Watson.

Absent.

Stokes.

Absent—Excused.

Greer.	Veale.
Paulus.	

Senator Looney moved to reconsider the vote by which the report was adopted, and lay that motion on the table.

The motion to table prevailed.

## REASONS FOR VOTING.

I vote "nay" on the adoption of the conference report on Senate bill No. 8, for the following reasons:

First. The conference report permits members of the Sanitary Board to receive passes. This board has no function to perform whatever, but to meet about once a year and be in session possibly from ten to twenty minutes, and prescribe regulations for the conduct of the Live Stock Inspectors.

While the report cuts out the House amendment, which provided that the cattle raisers inspectors shall receive free transportation, the latter class, in my opinion, have done more to suppress crime through the west and southwest Texas than every State ranger, sheriff and constable combined. They are a class of men who take no stock whatever in influencing legislation and there could be no good reason assigned why they are to be excluded and the State rangers, sheriffs and constables included.

The conference report further excludes newspapers from receiving mileage books for legitimate advertising and in this way deny the right of valid contract.

I am in favor of excluding the members of the Legislature, or in fact any officer, who might by virtue of his official position, grant special favors to the railroad company, from receiving free transportation, but am not in favor of prohibiting men who do not seek to influence legislation, but on the other hand use their best efforts to suppress

crime from receiving free transportation.

HUDSPETH.

## HOUSE MESSAGE.

Hall of the House of Representatives,  
Austin, Texas, March 19, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has Adopted the Free Conference Committee report on House bill No. 274.

House Concurrent Resolution No. 24, Providing for a joint committee to make arrangements for the address to be delivered by Hon. Wm. J. Bryan.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

## SENATE BILL NO. 50.

Action here recurred on Senate bill No. 50, which had been laid before the Senate.

There being a favorable majority committee report and an unfavorable minority committee report,

Senator Mayfield moved the adoption of the majority committee report, and

Senator Watson moved, as a substitute the adoption of the minority committee report.

Pending discussion on the motions, the question was raised that if the minority committee report was adopted, which would kill the bill, that there could be no other legislation on this subject at this session of the Legislature; and pending further discussion of the motions Senator Skinner made the above as a point of order and asked a ruling by the Chair.

Senator Smith contended that the adoption of the minority committee report would not prevent further legislation on this subject, in that the bill was not before the Senate for consideration, until the committee reports were acted on.

## RECESS.

On motion of Senator Masterson, the Senate, at 12:50 o'clock, recessed until 3 o'clock today.

## AFTER RECESS.

The Senate was called to order by Lieutenant Governor Davidson.

## SENATE BILL NO. 50.

Action recurred on Senate bill No. 50, the question being on the substitute motion to adopt the minority committee report in lieu of the majority committee report, and

Senator Watson withdrew the substitute motion.

The withdrawal of the substitute motion left the point of order raised before the Senate recessed without a ruling.

The majority committee report was then adopted by the following vote:

## Yeas—18.

Barrett.	Holsey.
Brachfield.	Hudspeth.
Chambers.	Kellie.
Cunningham.	Looney.
Faust.	Mayfield.
Glasscock.	Murray.
Green.	Skinner.
Grinnan.	Stone.
Harper.	Terrell.

## Yeas—7.

Alexander.	Smith.
Griggs.	Watson.
Masterson.	Willacy.
Senter.	

## Absent.

Harbison.	Stokes.
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## Absent—Excused.

Greer.	Paulus.
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## PAIRED.

Senator Meachum (present), who would vote "nay," with Senator Veale (absent), who would vote "yea."

Senator Watson offered the following substitute for the bill:

S. B. No. 160. By Watson, Alexander, Smith and Meachum.

## A BILL

## To Be Entitled

An Act to prohibit bucket shops or bucket shopping within this State, and to provide penalties for its violation; to prohibit gambling in contract for future delivery; to render unlawful any contract for future deliverance where delivery is not intended, or where such contract is not made as the hedge to protect against fluctuations in value of products or security; to require commission brokers or merchants to accept no future contracts

except where intended for actual delivery or a hedge on actual products or securities; to prohibit the purchase or sale of such contracts by individuals and to provide penalties against both buyer and seller and broker who violate the provisions of this act.

Be it enacted by the Legislature of the State of Texas:

Section 1. That a bucket shop within the meaning of this act is defined to be an office, store, or other place, wherein the proprietor or keeper thereof, either in his own behalf or that of others, or as the agent or correspondent of any other person, corporation, association or co-partnership within or without the State, conducts the business of making or offering to make contracts, agreements, trades, or transactions, respecting the purchase or sale, or purchase and sale of any cotton, stocks, grain, provision, or other commodity or personal property, wherein both parties thereto, or said proprietor or keeper, contemplates or intends that such contracts, agreements, trades, or transactions shall be, or may be, closed, adjusted or settled according to or upon the basis of the public market quotations or prices made on any Board of Trade or Exchange, upon the commodities or securities referred to in said contracts, agreements, trades or transactions are dealt in, and without bona fide transaction on such Board of Trade or Exchange or wherein both parties or such keeper or proprietor shall contemplate or intend that such contracts, agreements, trades or transactions shall be, or may be deemed closed or terminated when the public market quotations of prices made on such Board of Trade or Exchange, for the articles or securities named in said contracts, agreements, trades or transactions shall reach a certain figure; also any office, store or other place where the keeper or proprietor thereof, either in his behalf or of others, or as agent, as aforesaid, therein makes, or offers to make with others, contracts, trades or transactions for the purchase or sale of any such commodity or securities wherein the parties thereto do not contemplate the actual receipt or delivery of such property, or where it is not placed as a hedge or protection against fluctuations in value of such property, but do contemplate a settlement thereof based upon differences in the prices at which said property is, or is claimed, to be bought and sold. The said crime shall be complete against any proprietor or keeper thus offering to

make any contract, trades or transactions whether such offer is accepted or not.

It is the intention of this act to prohibit, prevent and punish within this State the business now engaged in and conducted in places commonly known and designated as "bucket shops" by persons, corporations, associations, or co-partnerships, who or which ostensibly carry on the business or occupation of commission merchants or brokers in cotton, grain, provisions, stocks or bonds or other commodities or securities, and to require legitimate brokers to refuse gambling contracts and to prevent gambling in such property by individuals.

Sec. 2. That it shall be unlawful for any corporation, association, co-partnership or persons to keep or cause to be kept within this State any bucket shops. And any corporation, association, person or partnership, whether acting individually or as a member, or as an officer, agent or employe of any corporation, association, partnership or individual, who shall keep or assist in the keeping of any bucket shop within this State, shall upon conviction be imprisoned in the county jail for a period of not less than thirty days and not more than ninety days. And if a corporation, shall, in addition, be liable to forfeiture of its charter, and the continuance of such establishment herein mentioned, after first offense, shall be deemed a second offense.

Sec. 3. That any corporation, association, partnership or person who shall communicate, receive, exhibit, or display in any manner any statement or quotations of the prices of any property mentioned in Section 1 hereof, with a view to any transaction in this act prohibited, shall be deemed an accessory and upon conviction thereof shall be fined and punished the same as the principal, and as provided in Section 2 of this act.

Sec. 4. That it shall be the duty of every commission merchant, co-partnership, association, corporation or broker doing business as such to immediately after said order is executed furnish every customer or principal for whom such commission merchant, broker, partnership, corporation or association has executed any order for the actual purchase or sale of any of the commodities hereinbefore mentioned, either for immediate or future delivery, a written statement, containing the names of the parties from whom such property was bought, or to whom it was sold, as the case may be; the time when, the place where and the price at which the same

was either bought or sold, and in case such commission merchant, broker, partnership, corporation or association fails to properly furnish such statement, the fact of such failure shall be prima facie evidence that such property was not bought or sold in a legitimate way.

Sec. 5. That it shall be the duty of every person, corporation, association or co-partnership representing themselves to the public as commission brokers or merchants for the purchase or sale, for immediate or future delivery, of the commodities or securities hereinbefore named, to be a member or the duly accredited agent of a member of some reputable chartered Board of Trade or Exchange, such as the Chicago Board of Trade, the New York Stock Exchange, the New Orleans Cotton Exchange, or the Galveston Cotton Exchange, and the broker executing the order shall be a member of the Exchange or Board of Trade, on which the order is executed, and to keep such certificate of membership conspicuously posted in his or their place of business. Any so-called commission brokers or merchants who do not possess such certificate shall be prima facie guilty of bucket-shopping.

Sec. 6. Every commission broker shall require from his customer before executing his order for the purchase or sale of any property for future delivery a written declaration that actual delivery or acceptance of such property is intended, or that such purchase is intended as a hedge against fluctuation in value of actual property, purchased or to be purchased by said customer. Provided that all orders may be accepted over the telephone if the purchaser shall at the time of giving the order notify the broker that he has mailed to him the declaration required in this section. Any commission broker who violates the provisions of this section shall be liable to a fine of not less than five hundred dollars or to imprisonment in the county jail for thirty days or both such fine and imprisonment, and any individual who shall purchase or sell any property for future delivery without the intention to accept or deliver such property, or to use such purchase or sale as a protection against fluctuation in value of actual property purchased or to be purchased shall be punished by a fine of not less than \$100.00.

Sec. 7. That every commission broker shall keep a copy of this law conspicuously posted in his place of business.

Sec. 8. It is recognized that the gambling spirit is prevalent over the entire

country, that it has destroyed fortunes, ruined the homes, blasted reputations and brought want, misery and shame on many of our people, and it is the purpose of this act to exercise the legislative power to restrain this baneful tendency. The injurious effects on the public morals produced by these establishments, creating and fostering the gambling spirit, creates an emergency which requires that the constitutional rule that bills be read on three several days be suspended, and this act take effect from and after its passage, and it is so enacted.

Pending,

#### SECOND HOUSE MESSAGE.

Hall of the House of Representatives,  
Austin, Texas, March 19, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

House bill No. 383, A bill to be entitled "An Act to establish and attach to the Deaf and Dumb Institute at Austin, Texas, a branch thereof for the custodial care, maintenance and education of defective persons, which shall include the feeble-minded, idiotic, epileptic and paralytic persons in this State; defining who are feeble-minded persons, and declaring an emergency."

The House has adopted Conference Committee report on Senate bill No. 8 by the following vote: Yeas, 101; nays, 11.

The House concurs in Senate amendments to House bill No. 162.

The House concurs in Senate amendment to House bill No. 535.

Respectfully,

BOB BARKER,

Chief Clerk, House of Representatives.

#### EXECUTIVE MESSAGE.

Executive Office, State of Texas.  
Austin, Texas, March 19, 1907.

To the Senate:

I have the honor to transmit to your honorable body a copy of statement appended to Senate bill No. 109, entitled "An Act making appropriations for deficiencies in the appropriations heretofore made for the support of the State government for the fiscal years ending August 31, 1903, August 31, 1904, August 31, 1905, August 31, 1906, and August 31, 1907, being for claims registered in the Comptroller's office in ac-

cordance with law, and for outstanding claims not registered, and to make additional appropriations for the support of the State government for the year ending August 31, 1905, August 31, 1906, and August 31, 1907, and declaring an emergency."

This bill I have signed today and approved all items of appropriations therein contained save and except those set out as objected to in the statement thereto appended, a copy of which statement of items to which I object is herewith transmitted.

T. M. CAMPBELL,

Governor.

Executive Office, State of Texas.

Austin, Texas, March 19, 1907.

To the Secretary of State.

Sir: I herewith transmit Senate bill No. 109, entitled "An Act making appropriations for deficiencies in the appropriations heretofore made for the support of the State government for the fiscal years ending August 31, 1903, August 31, 1904, August 31, 1905, August 31, 1906, and August 31, 1907, being for claims registered in the Comptroller's office in accordance with law, and for outstanding claims not registered, and to make additional appropriations for the support of the State government for the year ending August 31, 1905, August 31, 1906, and August 31, 1907, and declaring an emergency."

I object to and disapprove the following appropriation items in said bill, which is hereto appended, viz.:

Item 1. To pay fees of official stenographers for making transcripts in felony cases for the two years ending August 31, 1907, \$25,000, page 2.

This item seems to be based on probable fees having their origin in an act of the Twenty-ninth Legislature, which provides for the appointment of stenographers to report cases and to make up statement of facts of oral evidence in criminal cases "where the defendant is convicted of a felony and desires to appeal."

No appropriation was made for carrying this provision of the act into effect at the time of its passage, and I believe that probably no legal liability has been incurred against the State on this account. If, however, there are just claims against the State arising under the law referred to, the exact amount of each claim is capable of accurate ascertainment, and should be passed upon on its merits. The name

of the claimant, the amount due such claimant, the case and service rendered in each case should, in my opinion, be accurately stated, even if the Legislature should authorize the creation of such deficiency in advance of the deficiency claim. It occurs to me that no service should be performed in pursuance of this law and no liability authorized or incurred against the State until an appropriation is made to carry the same into effect, and no deficiency claim should be tolerated until such deficiency is authorized by law.

Item 2. To employ four additional clerks in the General Land Office at \$10 per month each for the months of March, April, May, June, July and August, 1907, \$2400, on page 8, and salary of one additional clerk from March 1 to August 31, 1907, at \$100 per month, \$600, State Treasurer's office, on page 9 of this bill, are disapproved, because the financial condition of the State, in my judgment, forbids either the increase of salaries or any increase in the number of department or other employees. However much the public service may be facilitated temporarily, the State's financial condition and the present deficiency calls for rigid economy in all branches of the public service.

T. M. CAMPBELL,  
Governor.

#### RECESS.

On motion of Senator Skinner, the Senate, at 5:50 o'clock, recessed until 8 o'clock tonight.

#### AFTER RECESS.

(Night Session.)

The Senate was called to order by Lieutenant Governor Davidson.

#### HOUSE BILL NO. 264.

On motion of Senator Masterson, and under the resolution providing for night sessions,

The Chair laid before the Senate, on second reading,

House bill No. 264, A bill to be entitled "An Act for the promotion of medical science by the distribution and use of unclaimed human bodies for scientific purposes through a board created for that purpose, and to prevent unauthorized uses and traffic in human bodies, and to legalize dissections and experiments by authorized persons."

Senator Masterson moved the adoption of the committee report, which

recommended that the bill be not printed.

The motion prevailed by the following vote:

Yeas—19.

Alexander.	Masterson.
Barrett.	Mayfield.
Brachfield.	Meachum.
Cunningham.	Murray.
Grinnan.	Skinner.
Harper.	Smith.
Holsey.	Stone.
Kellie.	Veale.
Looney.	Willacy.

Nays—2.

Chambers.	Watson.
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Absent.

Faust.	Hudspeth.
Glasscock.	Senter.
Green.	Stokes.
Griggs.	Terrell.
Harbison.	

Absent—Excused.

Greer.	Paulus.
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Senator Masterson offered the following amendment, which was adopted:

Amend the bill by inserting after the words "Deaf and Dumb Institutes," in Section 2, the words: "Insane Asylum and Epileptic Colony."

Senator Terrell offered the following amendment:

Amend the bill by striking out the enacting clause.

TERRELL,  
CHAMBERS.

Senator Glasscock offered the following amendment, which was adopted:

Amend by inserting the words "or county" after the word "district," in line 31, page 1, Section 1.

Senator Looney offered the following amendment, which was adopted:

Amend the bill as amended by adding after the word "Colony" the following: "Or any other home for indigent or other eleemosynary institution maintained by the State."

Senator Chambers offered the following amendment, which was adopted:

Amend the bill, Section 2, by striking out lines 30, 31 and 32, after word "burial," in line 30 and insert in lieu, "and without cost."

Senator Terrell offered the following amendment:

Amend the bill by inserting between the words "supplied" and "the" of Sec-

tion 3: "Provided, that if any member of said board or any one in their stead shall charge or receive any money or thing of value for such body they shall be punished by confinement in the penitentiary for not less than two years nor more than five years."

The amendment was lost by the following vote:

Yeas—6.

Barrett.	Cunningham.
Brachfield.	Stone.
Chambers.	Terrell.

Nays—18.

Alexander.	* Masterson.
Faust.	Mayfield.
Glasscock.	Meachum.
Green.	Murray.
Grinnan.	Skinner.
Harper.	Smith.
Holsey.	Veale.
Kellie.	Watson.
Looney.	Willacy.

Absent.

Griggs.	Senter.
Harbison.	Stokes.
Hudspeth.	

Absent—Excused.

Greer.	Paulus.
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Senator Masterson offered the following amendment, which was adopted:

Amend the bill by inserting after the word "possible," in Section 2, the words, "such person in charge of such public institution shall file with the county judge an affidavit that he has made diligent inquiry and stating such inquiry as he has made."

Senator Meachum moved the previous question on the amendment and bill, the motion being duly seconded, was so ordered.

The vote by which the previous question was ordered, was reconsidered, on motion of Senator Smith.

Pending discussion on the bill, Senator Alexander moved the previous question on the amendment and the bill, the motion being duly seconded, was ordered.

The amendment by Senator Terrell was lost by the following vote:

Yeas—6.

Barrett.	Stone.
Chambers.	Terrell.
Cunningham.	Watson.

Nays—18.

Alexander.	Brachfield.
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Faust.	Masterson.
Glasscock.	Mayfield.
Green.	Meachum.
Grinnan.	Murray.
Harper.	Skinner.
Holsey.	Smith.
Kellie.	Veale.
Looney.	Willacy.

Absent.

Griggs.	Senter.
Harbison.	Stokes.
Hudspeth.	

Absent—Excused.

Greer.	Paulus.
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Bill read second time and passed to a third reading.

On motion of Senator Masterson, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put on its third reading and final passage by the following vote:

Yeas—22.

Alexander.	Looney.
Barrett.	Masterson.
Brachfield.	Mayfield.
Cunningham.	Meachum.
Faust.	Murray.
Glasscock.	Skinner.
Green.	Smith.
Grinnan.	Stone.
Harper.	Veale.
Holsey.	Watson.
Kellie.	Willacy.

Nays—2.

Chambers.	Terrell.
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Absent.

Griggs.	Senter.
Harbison.	Stokes.
Hudspeth.	

Absent—Excused.

Greer.	Paulus.
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The bill was read third time, and passed by the following vote:

Yeas—19.

Alexander.	Looney.
Brachfield.	Masterson.
Cunningham.	Mayfield.
Faust.	Meachum.
Glasscock.	Murray.
Green.	Skinner.
Grinnan.	Smith.
Harper.	Veale.
Holsey.	Willacy.
Kellie.	



## Nays—5.

Barrett. Terrell.  
Chambers. Watson.  
Stone.

Absent.

Griggs. Senter.  
Harbison. Stokes.  
Hudspeth.

Absent—Excused.

Greer. Paulus.

Senator Masterson moved to reconsider the vote by which the bill was passed, and lay that motion on the table. The motion to table prevailed.

## ADJOURNMENT.

On motion of Senator Smith, the Senate, at 10 o'clock, adjourned until tomorrow morning at 10 o'clock.

## APPENDIX.

## PETITIONS.

By Senator Green:

San Antonio, Texas, March 8, 1907.

To Our Representatives at Austin:

We, the undersigned citizens of Bexar county, Texas, believe that the appellate system of our judiciary, as it now exists, is entirely satisfactory to the people, and can not be improved by the measure which is now being agitated before the Legislature.

Numerously signed.

By Senator Cunningham:

Abilene, Texas, March 16, 1907.

W. J. Cunningham, Senate Chamber, Austin, Texas.

Dear Sir: We, the undersigned, respectfully ask that you use all your influence to have passed what is known as the Scalp law, which is now pending before the Legislature, as it is very important that this bill should be passed for the protection of the people of the State from the ravages of these wild animals. The State is selling vast quantities of land in the section of the country that is infested by these animals and we consider it the duty of the great State of Texas to give protection to the parties that are opening up this great territory, and converting what has been heretofore considered a barren

waste into a great and splendid country, and by sound and judicious laws, enable these people to open up this territory, which has been heretofore unfruitful to the State and make it one of the fruitful parts of the State. It is indispensable to the progress of this country that such a bill be passed by this Legislature, to keep their stock from being devoured by these wild animals, which are found in abundance in various part of the State. Please give this matter your best attention and push the matter through, if possible to do so.

Wishing you success in this matter,  
We are yours truly,  
Numerously signed.

By Senator Faust:

New Braunfels, Texas,  
March 18, 1907.

Hon. Jas. Faust, Senator Twenty-first Senatorial District, Austin, Texas.

Dear Sir: At a meeting held at the Comal county court house on March 15, at which Dr. A. Garwood was elected chairman, A. C. Coers, secretary, the following resolution was passed:

Whereas, We, citizen of Comal county, believe that the existing passenger railroad rates are as low as they can be made at the present time, without impairing efficient service; and

Whereas, We believe that reduction of said rate to 2 cents per mile, would be to the detriment of Southwest Texas, and the State at large, by directly hindering the building of new roads and preventing satisfactory service and increased facilities from established lines; therefore, be it

Resolved, That our representatives in the Legislature be, and are hereby requested to earnestly oppose any reduction of mileage at this session of the Legislature.

DR. A. GARWOOD, Chairman.  
A. C. COERS, Secretary.

By Senator Grinnan:

Coleman, Texas, January, 1907.

To The Senate and House of Representatives of the Thirtieth Legislature of Texas.

We, the undersigned citizens of Coleman county, respectfully ask you to support the bill introduced by the Hon. Claude Hudspeth, making an appropriation to be used in payment for the scalps of wolves, panthers and other wild animals.

Numerously signed.

## COMMITTEE REPORTS.

(Floor Report.)

Committee Room,

Austin, Texas, March 19, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: We, the undersigned members of your Committee on Internal Improvements, to whom was referred

Senate bill No. 155, A bill to be entitled "An Act to amend Article 643, of the Revised Statutes of the State of Texas, prescribing what must be set forth in the charter of a domestic corporation,"

Have had the same under consideration, and beg to report it back to the Senate with the recommendation that it do pass.

Brachfield, Chairman; Murray, Faust, Green, Willacy, Holsey, Masterson, Chambers.

(Floor Report.)

Committee Room,

Austin, Texas, March 18, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: We, the undersigned members of your Committee on Internal Improvements, to whom was referred

Senate bill No. 154, A bill to be entitled "An Act to amend Article 745, of the Revised Civil Statutes of the State of Texas, requiring foreign corporations to file their articles of incorporation with the Secretary of State and imposing certain conditions upon said corporations transacting business in this State, and authorizing the Secretary of State to issue permits to such corporations, as amended by Chapter 119, Acts of the Twenty-fifth Legislature,"

Have had the same under consideration, and beg to report it back to the Senate with the recommendation that it do pass.

Brachfield, Chairman; Murray, Faust, Green, Willacy, Holsey, Masterson, Chambers.

Committee Room,

Austin, Texas, March 19, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Finance Committee, to whom was referred

Senate bill No. 39, A bill to be entitled "An Act making appropriations for the support of the State government for two years, beginning September 1,

1907, and ending August 31, 1909, and for other purposes,"

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do not pass, but that the committee substitute do pass in lieu thereof, and that the substitute only be printed.

WILLACY, Chairman.

By motion of Senator Willacy, the substitute bill was ordered not printed in the Journal.

(Floor Report.)

Committee Room,

Austin, Texas, March 19, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Educational Affairs, to whom was referred

House bill No. 459, A bill to be entitled "An Act creating an independent school district to be known as the Hagerman Independent School District, including within its limits the town of Hagerman, and to provide for the creation of a board of trustees thereof, and authorizing the board of trustees to levy, assess and collect special taxes, and conferring upon the board of trustees plenary powers and authority to issue bonds for the purpose of purchasing school sites, and erecting, furnishing and equipping school buildings within the same and to pay current expenses in the maintenance and support of said schools, and further prescribing the duties and authorities of said board,"

Have had the same under consideration, and beg leave to report same back to the Senate with the recommendation that it do pass, and be not printed.

Barrett, Chairman; Harper, Moachum, Senter, Green, Glasscock, Grinnan, Kellie.

(Floor Report.)

Committee Room,

Austin, Texas, March 19, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Educational Affairs, to whom was referred

House bill No. 462, A bill to be entitled "An Act incorporating the Cisco Independent School District, in Eastland county, Texas, for free school purposes only; defining its boundaries and providing for a board of trustees; divesting the city of Cisco of the control of its public schools and title to school

property, and vesting the same in said Cisco Independent School District and its board of trustees; prescribing the rights, powers, privileges and duties of said Cisco Independent School District and its board of trustees, and declaring an emergency."

Have had the same under consideration, and beg leave to report same back to the Senate with the recommendation that it do pass, and be not printed.

Barrett, Chairman; Glasscock, Kellie, Harper, Grinnan, Green, Meachum.

(Floor Report.)

Committee Room,  
Austin, Texas, March 19, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Judiciary Committee No. 1, to whom was referred

House bill No. 68, A bill to be entitled "An Act to amend an act to prescribe the time within which statement of facts, bills of exceptions, may be filed in causes tried in the district and county courts of Texas; and to authorize judges, whose term of office has expired to approve the same, being Chapter 25 of the Acts of 1903, approved February 28, 1903; amending so that judges also have twenty days after adjournment of the term of court at which said cause may be tried to file findings of fact and conclusions of law,"

Have had the same under consideration, and we report same back to the Senate with the recommendation that it do pass.

Stone, Chairman; Grinnan, Harper, Brachfield, Green, Chambers, Griggs, Skinner, Senter.

(Floor Report.)

Committee Room,  
Austin, Texas, March 19, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: We, your Committee on Constitutional Amendments, to whom was referred

House Joint Resolution No. 18. Amending Section 9, Article 8 of the Constitution of the State of Texas by adding thereto a section to be known as Section 9a, increasing the amount of tax that may be voted for the purpose of improving public roads, and to allow counties or political subdivisions of counties by a majority vote of the qualified property tax paying voters of the county or political subdivision thereof, voting at an elec-

tion to be held for that purpose, to adopt same,

Have had the same under consideration, and we report same back to the Senate with the recommendation that it do pass.

Harper, Chairman; Brachfield, Skinner, Terrell, Barrett, Grinnan, Senter, Looney.

(Floor Report.)

Committee Room,  
Austin, Texas, March 19, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Roads, Bridges and Ferries, to whom was referred

Senate bill No. 283, A bill to be entitled "An Act to create a more efficient road system for Gillespie county, Texas, and making the commissioners of said county ex-officio road commissioners in their respective precincts, and prescribing their duties as such, and authorizing the appointment of deputy road commissioners and providing for the compensation of road commissioners and deputy road commissioners; defining the duties of the commissioners court with reference to roads and bridges; providing for the appointment of overseers and defining their duties, and providing for and fixing their compensation for certain labors; providing penalties for violation of the provisions of this act; giving persons subject to road duty in Gillespie county and persons summoned to work on the public roads of said county the right to be relieved from the discharge of such duty upon the payment of specific sums of money herein stipulated; and providing for the accounting for and the disposition to be made of the money so paid; limiting the purpose for which road and bridge funds shall be used; authorizing and providing for the working of county convicts upon the public roads and providing for the payment of officers' fees; providing that delinquent poll tax payers shall be subject to three days' road duty; requiring the tax collector of Gillespie county to furnish to the commissioners court a list of all persons who fail to pay their poll tax; providing for the condemnation of any land needed for the widening, straightening, changing or draining of public roads; providing for the taking of timber, gravel, earth, stone or other material for the making or improving of public roads and bridges; requiring certain road and bridge work to be done by con-

tract; providing that this act shall control in Gillespie county in all cases wherein it differs from or is inconsistent and conflicts with the general law on the subject of roads and bridges, and declaring an emergency,"

Have had the same under consideration, and beg leave to report same back to the Senate with the recommendation that it do pass, and be not printed.

Green, Chairman; Harper, Meachum, Mayfield, Hudspeth, Watson, Glasscock.

(Floor Report.)

Committee Room,  
Austin, Texas, March 19, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Roads, Bridges and Ferries, to whom was referred

Senate bill No. 290, A bill to be entitled "An Act to amend an act entitled 'An Act to create a more efficient road system for Dallas county, Texas, passed by the Twenty-ninth Legislature, and declaring an emergency,'"

Have had the same under consideration, and beg leave to report same back to the Senate with the recommendation that it do pass, and be not printed.

Green, Chairman; Senter, Harper, Watson, Hudspeth, Mayfield, Glasscock.

Committee Room,  
Austin, Texas, March 18, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 177, A bill to be entitled "An Act to amend Chapter XCIV, page 119, of the Acts of the Twenty-eighth Legislature, entitled 'An Act to define, prohibit and declare illegal trusts, monopolies and conspiracies in restraint of trade, and to prescribe penalties for forming or being connected with such trusts, monopolies and conspiracies, and to provide for the suppression of the same, and to promote free competition in the State of Texas, and to repeal all laws in conflict herewith,' by adding to said law Section 18, concerning punishment for violation thereof, Section 19, with reference to venue, Section 20, with reference to the duties of district and county attorneys and the Attorney General, and Section 21, concerning fees, and declaring an emergency,"

And find the same correctly engrossed.

CUNNINGHAM, Chairman.

Committee Room,  
Austin, Texas, March 18, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 223, A bill to be entitled "An Act to authorize either the State or the defendant by a written request filed among the papers of any cause in which the defendant may have been convicted of a violation of the local option law prohibiting the sale of intoxicating liquors in local option territories to have the appeal therefrom sent to that branch of the Court of Criminal Appeals then in session, or at which such appeals can be soonest reached and decided when there arises any constitutional question or an irregularity or illegality in any prohibition election, and declaring an emergency,"

And find the same correctly engrossed.

CUNNINGHAM, Chairman.

Committee Room,  
Austin, Texas, March 19, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 265, A bill to be entitled "An Act to amend an act passed by the Twenty-ninth Legislature, and known as Chapter 49, also known as House bill No. 565, and found on pages 398 and 440, inclusive, of the Special Laws of the State of Texas, passed at the Regular and First Called Session of the Twenty-ninth Legislature, convened at the city of Austin, January 15, 1905, and adjourned May 14, 1905, which act grants a special charter to the city of Beaumont and repeals the acts of the Legislature, granting a special charter to the said city, approved May 12, 1899, and amending Section 44 of said act by repealing the same and inserting in lieu thereof the following, also providing for an emergency,"

And find the same correctly engrossed.

CUNNINGHAM, Chairman.

Committee Room,  
Austin, Texas, March 19, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 15, A bill to be entitled "An Act on the subject of pri

vate corporations, prescribing the terms and conditions on which they may be chartered, and providing the amount of capital stock to be paid in and when the remainder shall be paid."

And find the same correctly engrossed.

CUNNINGHAM, Chairman.

Committee Room,  
Austin, Texas, March 19, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 203, "An Act to incorporate the trustees of the Independent School District of the City of San Antonio, and declaring an emergency,"

And find it correctly enrolled, and have this day, at 9:15 o'clock a. m., presented the same to the Governor for his approval.

MASTERSON, Chairman.

Committee Room,  
Austin, Texas, March 16, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 165, "An Act to authorize Galveston county to build and own combination roadway and bridge from Mainland to Galveston Island, and declaring an emergency,"

And find it correctly enrolled, and have this day, at 9:30 o'clock a. m., presented same to the Governor for his approval.

MASTERSON, Chairman.

Committee Room,  
Austin, Texas, March 18, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 26, "An Act to repeal Chapter 12 of the General Laws of Texas, passed by the Twenty-seventh Legislature, page 12, Laws of 1901, and to pass in lieu thereof this act; to create a Board of Medical Examiners for the examination and licensing of all physicians, surgeons, and obstetricians; to prescribe their qualifications; to provide for their proper registration, the revocation of their licenses for flagrant offenses; and to fix suitable penalties for illegal practice."

Be it enacted by the Legislature of the State of Texas:

Section 1. That a board, to be known as the Board of Medical Examiners for the State of Texas, is hereby established. Said board shall consist of eleven men learned in medicine, legal and active practitioners in the State of Texas, who shall have resided and practiced medicine in this State under a diploma from a legal and reputable college of medicine of the school to which said practitioner shall belong for more than three years prior to their appointment, and no one school shall have a majority representation on said board. Said board shall be appointed by the Governor of this State within ninety days after his inauguration, and the term of office of its members shall be two years, or until their successors shall be appointed and qualified. Each regular organized State association of practicing physicians that comes under the provisions of this act shall furnish the Governor ten names from each such State association of practicing physicians, from whom the appointments of this board shall be selected. No member of said board shall be a stockholder or a member of the faculty or a board of trustees of any medical school. Vacancies occurring in the board shall be filled by the Governor. The word "medicine" as used in this section shall have the same meaning and scope as given to it in Section 13 of this act.

Sec. 2. The members of said board shall qualify by taking the oath of office before a notary public or other officer empowered to administer oaths in the county in which each shall respectively reside. At the first meeting of said board after each biennial appointment the board shall elect a president, vice president and secretary-treasurer. Six members shall constitute a quorum. Regular meetings shall be held at least twice a year, at such times and places as shall be deemed most convenient for applicants. Due notice of such meetings shall be given by publication in such papers as may be selected by the board. Special meetings may be held upon a call of three members of the board. The board may prescribe rules, regulations and by-laws, in harmony with the provisions of this act, for its own proceedings and government for the examination of applicants for the practice of medicine and obstetrics. Said board, or any member, shall have power to administer oaths for all purposes required in the discharge of its duties, and to

adopt a seal to be affixed to all of its official documents.

Sec. 3. The Board of Examiners shall preserve a record of its proceedings in a book kept for that purpose, showing name, age, place and duration of residence of each applicant, the time spent in medical study in respective medical schools, and the year and school from which degrees were granted; said register shall also show whether applicants were rejected or licensed, and shall be prima facie evidence of all matters contained therein. The secretary of the board shall, on March 1 of each year, transmit an official copy of said register to the Secretary of State for permanent record, certified copy of which, with hand and seal of the secretary of said board, or Secretary of State, shall be admitted in evidence in all courts.

Sec. 4. From and after the passage of this act it shall be unlawful for any one to practice medicine in any of its branches upon human beings within the limits of this State who has not registered in the district clerk's office of the county in which he resides, his authority for so practicing, as herein prescribed, together with his age, post-office address, place of birth, school of practice to which he professes to belong, subscribed and verified by oath, which, if wilfully false, shall subject the applicant to conviction and punishment for false swearing as provided by law. The fact of such oath and record shall be indorsed by the district clerk upon the certificate. The holder of the certificate must have the same recorded upon each change of residence to another county, and the absence of such record shall be prima facie evidence of the want of possession of such certificate.

Sec. 5. It is hereby made the duty of the district clerk of each county in this State to purchase a book of suitable size, to be known as the "Medical Register" of such county, and set apart one full page for the registration of each physician, and to record in the same the name and record of each practitioner who presents a certificate from the State Board of Examiners, issued under this act. The clerk shall receive the sum of one dollar from each physician so registered, which shall be his full compensation for all duties required under this act. When any physician shall die or remove from the county, or have his license revoked, it shall be the duty of said clerk to make a note of facts at the bottom of the page as closing the record. On the first day of January in each year said clerk shall, on request

of the board, certify to the office of the State Board of Medical Examiners a correct list of the physicians then registered in the county, together with such other information as said board may require. Any district clerk, upon conviction of knowingly violating any of the provisions of this act, shall be fined not more than fifty dollars. A copy from the medical register pertaining to any person certified to by said clerk under the seal of said court; also a certificate issued by said officer certifying that any person named has or has not registered in said office as required by this act, shall be admitted in evidence in all trial courts.

Sec. 6. Within one year after the passage of this act all legalized practitioners of medicine in this State, who, practicing under the provisions of previous laws, or under diplomas of a reputable and legal college of medicine, have not already received license from a State Medical Examining Board of this State, shall present to the Board of Medical Examiners for the State of Texas documents, or legally certify the transcripts of documents, sufficient to establish the existence and validity of such diplomas or of the valid and existing license heretofore issued by previous examining boards of this State, or exemption existing under any law, and shall receive from said board verification license, which shall be recorded in the district clerk's office in the county in which the licentiates may reside. Such verification license shall be issued for a fee of fifty cents to all practitioners who have not already received a license from a State Board of Medical Examiners of this State. It is especially provided that those whose claims to State licenses rest upon diplomas from medical colleges recorded from January 1, 1891, to July 9, 1901, shall present to the State Board of Medical Examiners satisfactory evidence that their diplomas were issued from bona fide medical colleges of reputable standing, which shall be decided by the Board of Medical Examiners before they are entitled to a certificate from said board. This board may, at its discretion, arrange for reciprocity in license with the authorities of other States and Territories having requirements equal to those established by this act. License may be granted applicants for license under such reciprocity on payment of twenty dollars.

Sec. 7. All applicants for license to practice medicine in this State who are not licensed under the provisions of the previous section must successfully pass

an examination before the Board of Medical Examiners established by this act. Applicants to be eligible for examination must present satisfactory evidence to the board that they are more than twenty-one years of age, of good moral character, and graduates of bona fide, reputable medical schools. Such schools shall be considered reputable within the meaning of this act whose entrance requirements and courses of instruction are as high as those adopted by the better class of medical schools of the United States, to be determined and decided by the Board of Medical Examiners. Application for examination must be made in writing under affidavit to the secretary of the board, on forms prepared by the board, accompanied by a fee of fifteen dollars; except when an applicant desires to practice obstetrics alone the fee shall be five dollars. Such applicants shall be given due notice of the date and place of examination. Applicants to practice obstetrics in the State of Texas, upon proper application, shall be examined by the board in obstetrics only, and upon satisfactory examination shall be licensed to practice that branch only; provided, this shall not apply to those who do not follow obstetrics as a profession, and who do not advertise themselves as obstetricians or midwives, or hold themselves out to the public as so practicing. In case any applicant, because of failure to pass examination, be refused a license, he or she shall, after one year, be permitted to take a second examination without an additional fee.

Sec. 8. The fund realized from the aforesaid fees shall be applied first to the payment of necessary expenses of the Board of Examiners; any remaining funds shall be applied by the order of the board to compensating members of board in proportion to their labors.

Sec. 9. All examinations shall be conducted in writing and in such manner as shall be entirely fair and impartial to all individuals and every school of medicine, the applicants being known by numbers, without names or other method of identification on examination papers by which members of the board may be able to identify such papers, until after the applicants have been granted licenses or rejected. Examinations shall be conducted on the scientific branches of medicine only, and shall include anatomy, physiology, chemistry, histology, pathology, bacteriology, physical diagnosis, surgery, obstetrics, gynecology, hygiene, and medical jurisprudence. Upon satisfactory examination

under the rules of the board, applicants shall be granted licenses to practice medicine. All questions and answers, with grades attached, shall be preserved for one year. All applicants examined at the same time shall be given identical questions in each of the above branches. All certificates shall be attested by the seal and signed by all members of the board.

Sec. 10. Nothing in this act shall be construed as to discriminate against any particular school or system of medical practice. This act shall not apply to dentists legally qualified and registered under the laws of this State who confine their practice strictly to dentistry; nor to nurses who practice only nursing; nor to masseurs, in their particular sphere of labor, who publicly represent themselves as such; nor to commissioned or contract surgeons of the United States Army, Navy or Public Health and Marine Hospital Service, in the performance of their duties, but such shall not engage in private practice without license from the Board of Medical Examiners; nor to legally qualified physicians of other States called in consultation, but who do not open offices or appoint places in this State where patients may be met or called to see. This act shall be so construed as to apply to persons other than licensed druggists of this State not pretending to be physicians, who offer for sale on the streets or other public places remedies which they recommend for the cure of disease.

Sec. 11. The State Board of Medical Examiners may refuse to admit persons to its examinations or to issue the certificate provided for in this act for any of the following causes:

First. The presentation to the board of any license, certificate or diploma which was illegally or fraudulently obtained, or when fraud or deception has been practiced in passing the examination.

Second. Conviction of a crime of the grade of a felony, or one which involves moral turpitude, or procuring, or aiding or abetting the procuring of a criminal abortion.

Third. Other grossly unprofessional or dishonorable conduct of a character likely to deceive or defraud the public; or for habits of intemperance or drug addiction calculated to endanger the lives of patients; provided, that any applicant who may be refused admittance to examination before said board shall have his right of action to have such issue tried in the district court of the

county in which some member of the board shall reside.

Sec. 12. The right herein to practice medicine in this State may be revoked by any court of competent jurisdiction, upon proof of the violation of the law in any respect in regard thereto, or for any cause for which the State Board of Medical Examiners is authorized to refuse to admit persons to its examinations as provided in Section 11 of this act; and it shall be the duty of the Board of Medical Examiners and of any member thereof to institute such suit, in the name of the State, upon the relation of such board or any such member. Such action shall be in the nature of a quo warranto, and shall be governed, as near as practicable, by the law and rules relative thereto.

Sec. 13. Any person shall be regarded as practicing medicine within the meaning of this act who shall publicly profess to be a physician or surgeon or shall treat or offer to treat any disease or disorder, mental or physical deformity or injury, by any system or method, or to effect cures thereof and charge therefor, directly or indirectly, money or other compensation.

Sec. 14. Any person practicing medicine in this State, as defined in this act, in violation of the provisions of this act, shall, upon conviction, be fined not less than fifty dollars nor more than five hundred dollars, and by imprisonment not exceeding six months in the county jail, and in no case where any provision of this act is violated shall the violator be entitled to recover by action, suit or warrant, any compensation for the service rendered, and each day shall constitute a separate offense.

Sec. 15. All certificates heretofore issued by medical examining boards under former laws are hereby recognized as in full force, and are hereby confirmed, and are subject to the provisions of this act as though issued under it.

Sec. 16. Any person practicing medicine in this State, who shall procure from another any money, property, obligation, contract or other thing of value by making any false or fraudulent representation, statement or promise, and fails or refuses to return such money, property, obligation, contract or other thing of value to the person from whom it was so procured, shall be guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not less than one hundred dollars nor more than five hundred dollars, and such person may be tried or prosecuted in the county where the person so defrauded resides, and in

addition thereto a judgment may be rendered in said case forfeiting the license of such physician to practice medicine.

Sec. 17. All laws and parts of laws in conflict with the provisions of this act be and the same are hereby repealed.

Sec. 18. The fact that there is now no law properly regulating the practice of medicine in this State creates an emergency and an imperative necessity that the constitutional rule requiring bills to be read on three several days be suspended, and the same is hereby suspended, and that this act take effect and be in force from and after its passage, and it is so enacted,

And find it correctly enrolled, and have this day, at 11:30 o'clock a. m., presented same to the Governor for his approval.

MASTERSON, Chairman.

Committee Room,

Austin, Texas, March 16, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 45, "An Act on the subject of private corporations organized for the purpose of owning, maintaining and caring for public or private cemeteries, defining their powers and exempting the same from certain provisions of the statutes of this State."

Be it enacted by the Legislature of the State of Texas:

Section 1. That corporations for the purpose of owning and maintaining public or private cemeteries, or for the purpose only of maintaining and caring for cemeteries, may be formed under and in accordance with the provisions of Title 21 of the Revised Statutes; and when so organized shall have all the powers conferred upon like corporation by said title, and, in addition thereto, they shall have and exercise the powers herein prescribed, subject to all provisions embraced in said Title 21, not in conflict herewith. In framing a charter for such corporation, if desired to confer upon it the powers specified herein, the charter shall state that it is organized in pursuance of this act.

Sec. 2. Each owner of a lot or lots which may be embraced in any cemetery subject to the provisions of this law shall be a shareholder in any corporation to which the land may belong, and shall be entitled to all rights and privileges of a shareholder, whether the title



to the lot or lots was acquired from the corporation or was owned before its organization.

Sec. 3. The directors and officers of any corporation created in pursuance hereof, shall be chosen under and in accordance with the provisions of Title 21 of the Revised Statutes, except that married women may be directors and officers in such corporations, and may perform any duties and execute any deed or contract appertaining to the duties of the office so held, without the concurrence of their husbands.

Sec. 4. Every corporation organized under this act shall have the power to acquire, own and hold all lands and other property which may be necessary or suitable to the accomplishment of its purposes, and may acquire lands which have been previously dedicated to burial purposes, by conveyance from the person or persons in whom title may be, or from any person who may hold such land in trust, with the power to transfer it to preserve the trust. In case the land purchased as herein specified, or any portion of it has been used as a cemetery, then the owners of lots therein shall have the right to participate in the organization of the corporation, and shall be shareholders therein after the company has been organized.

Sec. 5. Whenever any corporation organized under this act shall acquire lands already used for burial purposes, the division of the said ground into lots, streets, etc., existing at the time of its acquisition, shall be preserved so far as is necessary to protect the rights of those who have already acquired lots therein. It shall be the duty of any such corporation, after its organization, to cause the ground which it may acquire for cemetery purposes to be laid out in proper avenues and alleys, blocks and lots, as may be found convenient and necessary for the proper use thereof, and the corporation shall cause a plot to be made of said cemetery ground, which shall be approved by the board of directors, and shall be attested by the president and secretary of the corporation, after which it shall be recorded in the county clerk's office of the county.

Sec. 6. Every corporation organized under this act shall have the power to make all necessary by-laws as prescribed by Title 21 of the Revised Statutes, and also to make all rules and regulations necessary to govern in the sale of lots and the use of the same by the purchasers thereof. The board of directors shall have authority to make reasonable rules requiring the lot owners to keep

their lots clean from improper growth so as to preserve the good order and proper appearance of the grounds, but shall not have the power to require of any lot owner a particular character of improvement therein.

Sec. 7. When it is desired to create a corporation under this act to receive the title to lands theretofore dedicated to the purpose of a cemetery, notice of the time and place of a meeting of the lot owners shall be published in a newspaper in the county, if there be one, for thirty days; and printed notices shall be posted at and upon such cemetery for thirty days prior to the time fixed for the meeting. When the lot owners and other persons uniting in the formation of the corporation shall assemble, the majority of those present and voting shall decide upon the question of incorporation, and the conveyance of the land to it. Such shall select the board of directors to be named in the charter, which may consist of lot owners alone, or persons may be chosen as directors who are not owners of lots in the cemetery. The board of directors shall elect the officers of such corporation required by Title 21 of the Revised Statutes.

Sec. 8. Corporations formed under this act shall be exempt from any provision of law requiring periodical reports to be made to any department of the State government.

Sec. 9. The fact that there is no law of this State covering the subject matter of this bill, and the further fact that many cemeteries owned by communities in this State have the legal title in individual trustees, in the event of whose death would render it difficult and expensive to vest title in the equitable owners, create an emergency and an imperative public necessity demanding the suspension of the constitutional rule requiring bills to be read on three several days, and the same is so done, and that this act take effect and be in force from and after its passage, and the same is so enacted,

And find it correctly enrolled, and have this day, at 9:30 o'clock a. m., presented same to the Governor for his approval.

MASTERSON, Chairman.

Committee Room,  
Austin, Texas, March 16, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 55, "An Act to authorize

the commissioners courts of the several counties of Texas to create and establish drainage districts, to construct canals, drains and ditches, to make levees, improve streams and water courses and make other improvements for the purpose of drainage; to order and hold elections for the purpose of voting on drainage propositions, and authorizing the issuance of bonds, commissioners and all other necessary officers of such drainage improvements and the maintenance thereof, and to levy and to collect taxes for the payment of such bonds, to appoint drainage commissioners and all other necessary officers of such drainage districts for the purpose of carrying into effect the provisions of this act; granting the right of eminent domain to such drainage districts, and authorizing the drainage commissioners to acquire by purchase, gift or grant, for such district, title to any right of way and other property, and generally authorizing the county commissioners court and the drainage commissioners to do all things necessary for the establishing and maintenance of such districts according to the provisions of this act; repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

Be it enacted by the Legislature of the State of Texas:

Section 1. The county commissioners courts of the several counties of this State may hereafter establish one or more drainage districts in their respective counties in the manner hereinafter provided, and may or may not include within the boundaries and limits of such districts, villages, towns and municipal corporations, or any portion thereof, but no land shall at the same time be included within the boundaries of more than one drainage district created under this act. Such drainage districts, when so established, may make drainage improvements therein and issue bonds in payment therefor as hereinafter provided.

Sec. 2. Upon the presentation to the county commissioners court of any county in this State of a petition (accompanied by the deposit provided for in Section 29 of this act), signed by twenty-five of the freehold resident citizen taxpayers, or in the event there are less than seventy-five freehold resident citizen taxpayers in the proposed district, then by one-third of such freehold resident citizen taxpayers of any proposed drainage district, whose lands may be affected thereby, praying for the establishing of a drainage district, and setting forth the

necessity, public utility and feasibility and proposed boundaries thereof, and designating a name for such drainage district, which name shall include the name of the county, the said commissioners court shall, at the same session when said petition is presented, set same down for hearing at some regular or special session of said court, called for the purpose, not less than thirty nor more than sixty days from the presentation of said petition, and shall order the clerk of said court to give notice of the date and place of said hearing by posting a copy of said petition, and the order of the court thereon, in five public places in said proposed district, one of which shall be at the courthouse door of said county, and four of which shall be within the limits of said proposed drainage district. The said clerk shall receive as compensation for such service, one dollar for each such notice and five cents per mile for each mile necessarily traveled in posting such notices.

Sec. 3. Upon the day set by said county commissioners court for the hearing of said petition any person whose land would be affected by the creation of said district may appear before said court and contest the creation of such district or contend for the creation of said district, and may offer testimony to show that said district is or is not necessary, and would or would not be of any public utility either sanitary, agricultural, or otherwise, and that the creation of such drainage district would or would not be feasible or practicable. Said county commissioners court shall have exclusive jurisdiction to hear and determine all contests and objections to the creation of such district, and all matters pertaining to the same, and said court shall have exclusive jurisdiction in all subsequent proceedings of the district when organized, except as hereinafter provided, and may adjourn hearing on any matter connected therewith from day to day, and all judgments rendered by said court in relation thereto shall be final, except as hereinafter otherwise provided.

Sec. 4. If at the hearing of said petition it shall appear to the court that the drainage of such district is feasible and practicable, and that it is needed, that the drainage would be conducive to the public health or would be a public benefit or a public utility then the court shall so find and cause its finding to be entered of record. But if the court should find that the drainage of said district is not feasible and practicable, or that the drainage of such district is

not needed, and that it would not be conducive to health or a public benefit, or would not be a public utility, then the court shall enter such finding of record and dismiss the petition at the cost of the petitioners.

Sec. 5. After the hearing of the petition as provided for in Sections 3 and 4 of this act, if the court should find in favor of the petitioners, for the establishment of a district according to the boundaries as set out in said petition or as modified by said court, then the court shall appoint a competent civil engineer, who shall receive a sum of not more than ten dollars (\$10) per day for his services for the time he is actually engaged in the work for which he is appointed, and said engineer is authorized to employ two assistants who shall each receive the sum of not more than two dollars (\$2) per day for the time they are actually engaged in the work.

Sec. 6. Before entering upon his official duties the civil engineer shall enter into a bond in the sum of five hundred (\$500) dollars, with two or more sureties, to be approved by the commissioners court and payable to the county judge, for the use and benefit of the drainage district, conditioned on the faithful discharge of his official duties under the provisions of this act.

Sec. 7. The civil engineer shall, as soon as practicable, or within such time as may be directed by the county commissioners court, go upon the premises and land embraced within the district and examine the land supposed to be drained and protected by levees, and shall locate the necessary canals, drains and ditches, laterals and levees, and make an estimate of the probable cost of making and completing each of them, and shall also designate the streams or streams and bayous necessary to be cleaned, deepened or straightened, and estimate the cost of each and shall also estimate the probable cost of maintaining same per year and shall at once make a detailed report of his work to the court.

Sec. 8. In locating the canals, drains and ditches, the engineer shall, in so far as the same may be practicable, follow the lines of the original surveys or of the sections where the land has been sectionized.

Sec. 9. Such report of the engineer shall be accompanied by a map showing the natural or beginning point, as well as the outlets, of all canals, drains, ditches and laterals, and shall show the length, width, depth and slopes of the banks of the cut or excavation, and the

estimated number of cubic yards of earth to be removed from each, and shall show the location and size of all levees and the estimated number of cubic yards of earth necessary to construct the same; a copy of the official Land Office map of the county, with the boundaries of the drainage district and the beginning points and outlets of all canals, drains, ditches and laterals, and other data required by this section shown thereon, shall be deemed a sufficient compliance with this section.

Sec. 10. When such a report of the engineer shall have been filed with the clerk of the county commissioners court it shall be the duty of said court at its next regular or special session to set such report down for a hearing at some subsequent regular or special session not less than twenty nor more than thirty days from the date of such sitting, and to instruct the clerk of said court to give notice of said hearing by posting notices in the same manner and for the same compensation as provided for in Section 2 of this act in regard to the original notices of the filing of the petition. At the hearing on said engineer's report any freehold taxpayer of said district whose lands may be affected by said drainage improvements, whether he be a resident of such district or not, may appear and object to any and all of said canals, drains, ditches and levees, for the reason that they are not located at the proper places, or that they are not sufficient in number or capacity to properly drain said territory.

Sec. 11. If there should be no objection to said report, or if there should be objection thereto, and the court should find that the objections are not well taken, the report shall be approved, and the fact of such approval entered of record on the minutes of said court; but the commissioners court shall not be confined to the number of drains, ditches, canals or levees or to the initial point or outlets of same, as located and shown by said report of the engineer, and may change the location of any of the said improvements, or may add to the number of same or reduce the number of same and order the engineer to locate any additional canals, drains, ditches or levees, as directed by the court, and the commissioners court, if it deem it necessary, may refer the entire report back to the engineer for a compliance with the orders of the court and require a further report.

Sec. 12. After the approval of the report of the engineer as provided for in the preceding section of this act, the

county commissioners court shall order an election to be held within such proposed drainage district at the earliest possible legal time, at which election there shall be submitted the following propositions, and none other: "For the drainage district and the issuance of bonds and levy of tax in payment therefor." "Against the drainage district and the issuance of bonds and levy of tax in payment therefor."

Sec. 13. Notice of such election, stating the time and place of holding the same, shall be given by the clerk of the court by posting notices thereof in five public places in such proposed drainage district and one at the courthouse door of the county in which such district is situated. Such notices shall contain the proposition to be voted upon as set forth in Section 12 of this act, and shall also specify the purposes for which said bonds are to be issued.

Sec. 14. The manner of conducting said election shall be governed by the election laws of the State of Texas, except as herein otherwise provided. None but resident property taxpayers who are qualified voters of said proposed district shall be entitled to vote at any election on any question submitted to the voters thereof by the county commissioners court at such election. The county commissioners court shall name a polling place for such election in each voting precinct or part of a precinct embraced in said drainage district, each of which shall be in the proposed drainage district, and shall also select and appoint the judges and other necessary officers of the election, and shall provide one and a half times as many ballots for said election as there are qualified resident taxpaying voters within such drainage district, as shown by the tax rolls of said county. Said ballot shall have printed thereon the words, and no others: "For the drainage district and issuance of bonds and levy of tax in payment therefor." "Against the drainage district and issuance of bonds and levy of tax in payment therefor."

Sec. 15. Every person who offers to vote in any election held under the provisions of this act shall first take the following oath before the presiding judge of the polling place wherein he offers to vote, and the presiding judge is hereby authorized to administer same: "I do solemnly swear (or affirm) that I am a qualified voter of ..... County, and that I am a resident property taxpayer of the proposed drainage district voted on at this election, and I have not voted before at this election."

Sec. 16. Immediately after the election the presiding judge at each polling place shall make return of the result in the same manner as provided for in elections for State and county officers, and return the ballot boxes to the county clerk, who shall keep same in a safe place and deliver them, together with the returns from the several polling places to the commissioners court at its next regular session or special session called for the purpose of canvassing the vote, and the county commissioners court shall at such session canvass the vote, and if it be found that a two-thirds majority shall have been cast in favor of drainage and the issuance of bonds and levy of tax, then the court shall declare the result of said election to be in favor of said drainage district, and shall enter same in the minutes of the court as follows: "Commissioners court of ..... County, Texas, ..... term, A. D. ...., in the matter of petition of ..... and ..... others, praying for the establishment of a drainage district in said petition fully described and designated by the name of ..... drainage district ..... Be it known that at an election called for that purpose in said district, held on the ..... day of ....., A. D., ....., a two-thirds majority of the voters thereat voted in favor of the creation of said drainage district and the issuance of bonds and the levy of a drainage tax. Now, therefore, it is considered and ordered by the court that said drainage district be, and the same is hereby established by the name of ..... drainage district, within the following metes and bounds, to wit:"

Sec. 17. After the establishment of any drainage district as herein provided, the commissioners court shall appoint three drainage commissioners, all of whom shall be residents of the proposed drainage district, who shall be freehold taxpayers and legal voters of the county, whose duties shall be as hereinafter provided, and who shall each receive for their services a sum of not more than two dollars and fifty cents (\$2.50) per day for the time actually engaged in the work of said district; provided, the compensation (if any), shall have been definitely fixed in the order of the court as provided in Section 4 of this act, and before any amount shall be paid said commissioners or either of them, they shall make a detailed report to the commissioners court of the time actually consumed in the work for said district and of the work done, and such report

shall be audited and approved by the commissioners court. Said drainage commissioners shall hold office for the term of two years and until their successors have qualified unless sooner removed by a majority vote of the county commissioners for malfeasance or nonfeasance in office. Upon the expiration of the term of office of said drainage commissioners the commissioners court shall appoint their successors by a majority vote.

Sec. 18. Before entering upon their duties all drainage commissioners shall take and subscribe before the county judge an oath to faithfully discharge the duties of their office without favor or partiality, and to render a true account of their doings to the court by which they are appointed whenever requested to do so, which oath shall be filed by the clerk of the commissioners court and preserved as a part of the records of said drainage district.

Sec. 18a. Before entering upon their duties each of the drainage commissioners shall make and enter into a good and sufficient bond in the sum of one thousand dollars, payable to the county judge, for the use and benefit of said drainage district, conditioned upon the faithful performance of their duties.

Sec. 19. The drainage commissioners shall organize by electing one of their number chairman and one secretary, and two of them shall constitute a quorum, and a concurrence of two shall be sufficient in all matters pertaining to the business of said district, except the letting of contracts and the drawing of warrants on the treasury, which shall require the concurrence of all of said commissioners.

Sec. 20. After the establishment of any such district the drainage commissioners shall employ a competent civil engineer upon a salary not to exceed ten dollars per day for the time actually engaged in work, and whose term of office shall be at the will of said drainage commissioners, which civil engineer shall proceed to make a map of such district showing the boundary lines thereof, with the original surveys therein, and also to make maps and profiles of the several canals, drains, ditches and levees located in such district, but a copy of the Land Office map of the county, as it applies to such district, showing the name and number of each survey and showing the area or number of acres contained in such district, shall be a sufficient compliance with such order in so far as making a map of the district is required, and any recognized map of any city or town which may be embraced

within the boundaries of said district shall be sufficient as to such city or town. Provided, however, that where boundary lines of such drainage district or any of them crosses an original survey the map shall show how many acres of such original survey are included within such drainage district.

Sec. 21. The map and profiles of each drain, ditch and levee required by the provisions of this act to be made shall show the relation that each canal, drain, ditch or levee bears to each tract of land through which it passes and the shape into which it divides each tract, and where the canal, drain, ditch or levee cuts off any tract less than twenty acres of land the map shall show the number of acres so divided therefrom and the number of acres in the whole tract, showing the shape of such small tract and its relation to the canal, ditch, drain or levee. And such profile map shall also show the number of cubic yards necessary to be excavated in order to make each canal, drain or ditch, and to build any levee located in such district, and give the estimated cost of each, and when said map, profiles and estimates shall have been completed by the engineer as herein provided, he shall sign the same in his official capacity and file them with the clerk of said county commissioners court.

Sec. 22. After the establishment of any such drainage district and after the making and filing of such maps, profiles and estimates as provided for in Section 23 of this act the commissioners court shall make an order directing the issuance of drainage bonds for such district sufficient to pay for such proposed improvements, provided, however, that said bonds shall not exceed in amount one-fourth of the assessed value of the real property in such district as shown by the last annual assessment thereof, made for State and county taxation.

Sec. 23. All bonds issued under the provisions of this act shall be issued in the name of the drainage district, signed by the county judge and attested by the clerk of the county court, with the seal of the county court affixed thereto, and such bonds shall be issued in denominations of not less than one hundred nor more than one thousand dollars each, and such bonds shall bear interest at a rate not to exceed five per cent per annum, payable annually. Such bonds and interest shall by their terms be made payable at the county treasurer's office of the county in which such drainage district is located, and no bonds shall be

made payable more than forty years after date.

Sec. 24. Any drainage district in the State of Texas desiring to issue bonds in accordance with this act shall, before such bonds are offered for sale, forward to the Attorney General a copy of the bonds to be issued, a certified copy of the order of the commissioners court levying the tax to pay interest and provide a sinking fund, and a statement of the total bonded indebtedness of such drainage district as such, including the series of bonds proposed and the assessed value of property for the purpose of taxation, as shown by the last official assessment by the county, together with such other information as the Attorney General may require, whereupon it shall be the duty of the Attorney General to carefully examine said bonds in connection with the facts and the Constitution and laws on the subject of the execution of such bonds, and if as the result of such examination the Attorney General shall find that such bonds were issued in conformity with the Constitution and laws, and that they are valid and binding obligations upon such drainage district by which they are issued, he shall so officially certify.

Sec. 25. When said bonds have been examined by the Attorney General and his certificate attached thereto they shall be registered by the State Comptroller in a book to be kept for that purpose, and the certificate of the Attorney General to the validity of such bonds shall be preserved of record for use in the event of litigation. Such bonds, after receiving the certificate of the Attorney General and having been registered in the Comptroller's office as herein provided, shall thereafter be held in every action, suit or proceeding in which their validity is or may be brought in question, prima facie, valid and binding obligations. And in every action brought to enforce collection of said bonds the certificate of the Attorney General or a duly certified copy thereof shall be admitted and received in evidence of the validity of such bonds, together with the coupons thereto attached; provided, that the only defense that can be offered against the validity of said bonds shall be forgery or fraud. But this article shall not be construed to give validity to any such bonds as may be issued in excess of the limit fixed by the Constitution, or contrary to its provisions, but all such bonds shall, to the extent of such excess, be held void.

Sec. 26. Before issuing any bonds under the provisions of this act the county

commissioners court shall provide a well bound book, in which a record shall be kept by the county clerk of all bonds issued, with their numbers, amount, rate of interest and date of issue, when due, where payable and amount received for the same, and the annual rate per cent assessment made each year to pay the interest on said bonds and provide a sinking fund for their payment. And said book shall at all times be open to the inspection of all parties interested in said district either as tax payers or bond holders, and upon the payment of any bond an entry thereof shall be made in said book. The county clerk shall receive for his services in recording all bonds and other instruments of the drainage district the same fees as provided by law for other like records.

Sec. 27. When such bonds have been registered, as provided for in the preceding section of this act, the county judge shall, with the additional assistance that the county commissioners court may direct and authorize, offer for sale and sell said bonds on the best terms and for the best price possible, but none of said bonds shall be sold for less than the face par value thereof and accrued interest thereon, and as fast as said bonds are sold, all moneys received therefor shall be paid by the county judge to the county treasurer and shall by him be placed to the credit of such drainage district.

Sec. 28. Before the county judge shall be authorized to sell any of the drainage bonds he shall execute a good and sufficient bond, payable to the commissioners of such drainage district to be approved by the county commissioners court of said county for an amount not less than the amount of bonds issued, conditioned upon the faithful discharge of his duties, which bond shall be subject to the approval of the said drainage commissioners, and the county judge shall be allowed one per cent of the amount received on the sale of any bonds sold by him in full payment for his services in that behalf.

Sec. 29. All expenses, of any kind, after the filing of the original petition necessarily incurred in connection with the creation, establishment and maintenance of any drainage district organized under the provisions of this act shall be paid out of the "Construction and Maintenance Fund" of such drainage district, which fund shall consist of all moneys received from the sale of bonds and all other accounts received by said district from whatever source except the tax collections applied to the sinking fund

and payment of interest on the drainage bonds. Provided, that should the proposition of the creation of such drainage district and issuance of bonds be defeated at the election called to vote upon same, then all expenses up to and including said election shall be paid in the following manner: When the original petition praying for the establishment of a drainage district is filed with the county commissioners court, it shall be accompanied by two hundred dollars in cash, which shall be deposited with the clerk of said county commissioners court, and by him held until after the result of the election for the creation of said drainage district has been declared and entered of record by the commissioners court, as hereinbefore provided, and should the result of said election be in favor of the establishment of said district then the said two hundred dollars shall be by said clerk returned to the signers of said original petition or their agent or attorney; but should the result of said election be against the establishment of said drainage district, then the said clerk shall pay out of the said two hundred dollars, upon vouchers signed by the county judge, all costs and expenses pertaining to the said proposed drainage district up to and including the said election, and shall return the balance, if any, of said two hundred dollars, to the signers of said original petition or their agent or attorney.

Sec. 30. Whenever any such district drainage bonds shall have been voted, the commissioners court shall levy and cause to be assessed and collected improvement taxes upon all property within said drainage district, whether real, personal, mixed or otherwise, and sufficient in amount to pay the interest on such bonds as shall fall due, together with an additional amount to be annually placed in a sinking fund sufficient to discharge and redeem said bonds at their maturity.

If advisable, the sinking fund shall, from time to time, be invested in such county, municipal, district or other bonds as shall be approved by the Attorney General of the State.

Sec. 31. The county commissioners court shall provide all necessary additional books for the uses of the assessor and collector of taxes and the county clerk for such drainage district, and charge the cost of same to the said drainage district. It shall be the duty of the county tax assessor, when ordered to do so by the county commissioners court, to assess all property within such drainage districts and list the same for

taxation in the books or rolls furnished him by said commissioners court for that purpose, and return said books or rolls at the same time when he returns the other books or rolls of the State and county taxes, for correction and approval; and if the said commissioners court shall find said books or rolls correct, they shall approve the same and order the county clerk to issue a warrant against the county treasurer in favor of said tax assessor to be paid from the funds of said drainage district. The tax assessor shall receive for said services such compensation as the said county commissioners court shall deem proper to compensate him for the amount of work done, provided that said county assessor shall in no event be allowed less than what he is now allowed by law for the like services. Should the tax assessor fail or refuse to comply with the orders of the commissioners court requiring him to assess and list for taxation all the property in such drainage districts as herein provided, he shall be suspended from the further discharge of his duties by the commissioners court of his county, and he shall be removed from office in the mode prescribed by law for the removal of county officers.

Sec. 32. The tax collector of the county shall be charged by the county commissioners court with the assessment rolls of the drainage district, and he shall be allowed such compensation for the collection of said taxes as he is now allowed for the collection of other taxes. The county commissioners court shall require the tax collector of the county to give an additional bond or security in such a sum as they may deem proper and safe to secure the collection of said taxes; and should any collector of taxes fail or refuse to give such additional bond or security as herein provided, when requested by the commissioners court, within the time prescribed by law for such purposes, he shall be suspended from office by the commissioners court of his county, and immediately thereafter be removed from office in the mode prescribed by law.

Sec. 33. It shall be the duty of the tax collector to make a certified list of all delinquent property upon which the drainage tax has not been paid and return the same to the county commissioners court, which shall proceed to have the same collected by the sale of such delinquent property in the same manner as is now provided for the sale of property for the collection of State and county taxes, and at the sale of any property for any delinquent drainage tax

the drainage commissioners may become the purchasers of the same for the benefit of the drainage district.

Sec. 34. It shall be the duty of the county treasurer to open an account with the drainage district and to keep an accurate account of all moneys received by him belonging to such district and of all amounts paid out by him. He shall pay out no money except upon a voucher signed by the drainage commissioners and countersigned by the county judge, and he shall carefully preserve on file all orders for the payment of money, and as often as required by the said drainage commissioners or the county commissioners court he shall render a correct account to them of all matters pertaining to the financial condition of such district.

Sec. 35. The county treasurer shall execute a good and sufficient bond, payable to the drainage commissioners of such district in a sum equal to twice the amount of bonds issued, conditioned for the faithful performance of his duty as treasurer of such district, which bond shall be approved by said drainage commissioners, and the treasurer shall be allowed as full compensation for his services as such treasurer the same per cent as is now allowed by the county for his services as county treasurer.

Sec. 36. The right of eminent domain is hereby conferred upon all drainage districts, established under the provisions of this act for the purpose of condemning and acquiring the right of way over and through any and all lands, private or public, except property used for cemetery purposes necessary for making the canals, drains, ditches and levees, and all improvements necessary to the drainage of the district. All such condemnation proceedings shall be instituted under the direction of the drainage commissioners and in the name of the drainage district, and the assessing of damages shall be in conformity to the statutes of the State of Texas for condemning and acquiring the right of way by railroads; provided, that no appeal from the finding and assessment of damage by the commissioners appointed for that purpose shall have the effect of causing a suspension of work by the drainage commissioners in prosecuting the work of drainage in all of its details: provided, that no right of way can be condemned through any part of an incorporated city or town without the consent of the lawful authorities of such city or town.

Sec. 37. The drainage commissioners of any district are hereby empowered to

acquire the necessary right of way for all canals, drains, ditches and levees and other necessary improvements contemplated by this act, by gift, grant, purchase or condemnation proceedings, and if acquired by purchase such purchase shall be subject to approval by the county commissioners court.

Sec. 38. All canals, drains, ditches, and levees made and water courses cleaned or constructed by any district shall be the public property of such district and every person owning land within said district shall have the right to drain into one or more of such public drains, and for such purpose shall be permitted at his own expense, to make drains according to the natural slope of the land through such other lands as intervene between his land and the nearest public drain or water-course, or along a public highway; provided, that no such drain through another's property or along a public highway shall be made until authorized by the drainage commissioners, who shall, after notice by the party desiring to make such drain, go upon the premises and act as a jury of view and determine the place where such drain may be made.

Sec. 39. Any person who shall wrongfully or purposely fill up, cut, injure or destroy or in any manner impair the usefulness of any canal, drain, ditch or water-course or other work constructed, repaired or improved under the provisions of this act for the purpose of drainage or protection from an overflow of water, shall be deemed guilty of a misdemeanor, and on conviction may be fined in any sum not exceeding one hundred dollars or imprisoned in the county jail not exceeding two months.

Sec. 40. The drainage commissioners of any district and the civil engineer from the time of their appointment are hereby authorized to go upon any lands lying within said district for the purpose of examining the same, locating the canals, drains, ditches and levees, making plans, surveys, maps and profiles, together with all necessary teams, help, tools and instruments, without subjecting themselves to action of trespass, and any person who shall wilfully prevent or prohibit any of such officers from entering any land for such purposes shall be guilty of a misdemeanor, and on conviction may be fined in any sum not exceeding twenty-five dollars for each day he shall so prevent or hinder such officer from entering upon any land, and any justice of the peace in the county shall have jurisdiction of all such offenses.

Sec. 40a. It shall be the duty of



the drainage commissioners to keep the canals, drains, ditches and levees and other improvements made under the provisions of this act, in repair, and they shall have general authority to supervise and control the construction and maintenance of same.

Sec. 41. Contracts for making and constructing canals, drains, ditches and levees, straightening and cleaning water courses and other necessary work in connection with any drainage district shall be let by the drainage commissioners to the lowest bidder, after giving notice by advertising the same in one or more newspapers of general circulation in the State of Texas, once a week for four consecutive weeks, and by posting notices for at least thirty days, in five public places in the county, one of which shall be at the courthouse door, and at least two of which shall be within said drainage district, and the contract for each drain, canal, ditch or levee may be let separately or all together; provided, that all the improvements included in the report of the drainage engineer and adopted by the court, as provided for in Section 10 of this act, shall be constructed.

Sec. 42. Any person or corporation or firm desiring to bid on the construction of any work advertised for as provided for in the preceding section of this act shall, upon application to the drainage commissioner, be furnished with a copy of the engineer's report showing the location, profiles and estimates of such work as provided for in this act, and all bids or offers to do any of such work shall be in writing and sealed and delivered to the chairman of the drainage commissioners, together with a certified check for at least five per cent of the total amount bid which shall be forfeited to the district in case the bidder refuses to enter into a proper contract, if his bid is accepted. Any and all bids may be rejected if deemed too high.

Sec. 43. All contracts made by the drainage commissioners shall be reduced to writing and signed by the contractors and drainage commissioners and approved by the county judge, and a copy of same filed with the county clerk for reference.

Sec. 44. The party, firm or corporation to whom any such contract is let shall give bond, payable to the drainage commissioners for said district, in twice the amount of the contract price, conditioned that he, they or it will faithfully perform the obligations, agreements and covenants of their contract, and that in default thereof, will pay to said district all damages sustained by reason thereof.

Said bond shall be approved by such drainage commissioners and the county judge.

Sec. 45. The drainage engineer shall furnish the contractor with a sectionized profile of the work contracted for, showing the depth, width and slope of all canals, drains, ditches and levees, and the number of cubic yards to be removed and other work to be done by the contractor, and such work shall be done by the contractor under the supervision of the drainage engineer, who shall indicate to the said contractor the points at which the laterals shall intersect the main canal and no earth shall be deposited by the contractor so as to interfere with the construction of such laterals or other contemplated work in said drainage district, or in the building of bridges or other work on the public roads, and when the work is completed according to contract the engineer shall make a detailed report of the same to the drainage commissioners showing whether the contract has been fully complied with according to its terms, and if not, in what particular it has not been so complied with.

Sec. 46. The drainage commissioners are hereby authorized and empowered to make all necessary bridges and culverts across or under any railroad track and right of way of such railway, to enable them to construct and maintain any canal, drain or ditch necessary to be constructed as a part of the drainage system of such district, such bridges or culverts to be paid for by the drainage district; provided, however, that notice shall first be given by such drainage commissioners to the railway authorities authorized to build or construct bridges and culverts, and the railway company shall be allowed thirty days in which to build such bridges or culverts at their own expense, if it should so desire, according to its own plans, provided such bridge or culvert shall be constructed as to not interfere with the free and unobstructed flow of the water passing through the canal or drain, and shall be placed at such points as are designated by the drainage engineer.

Sec. 47. The drainage commissioners are hereby authorized and required to build all necessary bridges and culverts across and over all canals, drain, ditches, laterals and levees made and constructed under the provisions of this act whenever the same crosses a county or a public road and shall pay for the same out of the drainage fund; and they are hereby authorized to draw warrants on the county treasurer therefor, which

warrant must be approved by the county judge.

Sec. 47. The drainage commissioners shall have the right, and it is hereby made their duty at all times during the progress of the work being done under contract, to inspect the same, and upon the completion of any contract they shall draw a warrant on the county treasurer for the amount of the contract price in favor of the contractor or his assignee, which warrant shall, when approved by the county judge, be paid out of the drainage fund of such district.

Sec. 48. If the drainage commissioners shall deem it advisable in order to obtain more favorable contracts, they may advertise and contract for work to be paid for in partial payments as the work progresses, but such partial payments shall not exceed in the aggregate seventy-five per cent of the total amount to be paid under the contract, the amount of work completed to be shown by a certified report by the engineer, and no payment to be made for work not completed.

Sec. 49. Whenever a drainage district has been established under the provisions of this act, no private individual, company or corporation or adjoining drainage district shall have the right to artificially drain adjacent lands located outside of such drainage district into any canals, drains or ditches until they have acquired the legal right to do so as herein provided. Whenever any private individual, company or corporation or adjoining drainage district shall desire to secure an outlet for drainage by making a connection with any canal, drain or ditch already constructed by any established drainage district, he, they or it shall make written application to the drainage commissioners of such established district for permission to make such connection, which application shall show the width, depth and length of such connecting drains or ditches, and when such application has been filed with the drainage commissioners of the established district, the civil engineer shall make an estimate of the quantity of water which such connecting drains or ditches would probably empty into such established canals or drains, and whether such established drains or canals have sufficient capacity to carry such excess of water without risk of damage thereto or the adjacent territory. And the engineer shall make a report showing the result of his examination and estimate, and the drainage commissioners of the established district may, if they deem advisable, authorize such connection, on

condition, however, that such private individual, company or corporation or adjoining drainage district shall first pay into the county treasury for the benefit of the construction and maintenance fund of such established drainage district a sum of money which bears the same ratio to the cost of the original canal or drain from the point of connection to its outlet, that the water to be emptied therein by the connecting drain or canal bears to the water then tributary to and being carried by the original canal or drain as estimated by the drainage engineer unless the drainage commissioners for the established district shall otherwise agree with such parties making application for such connection.

Sec. 49a. Whenever it becomes necessary or advantageous for an individual, corporation or drainage district, established or to be established, under this act, to secure drainage outlets through one or more drainage districts already established, as provided in the preceding sections of this act, and when it shall appear from the report of the engineer of such established district that the canals, drains or outlets of such established district, are not of sufficient capacity to carry the excess of water that would be discharged therein by reason of such connections, or that such additional discharge of water would endanger the initial canals and drains, or the lands and property adjacent thereto; then and in that case, the county court in which the initial district is situated, shall nevertheless authorize such individual, corporation, company, or drainage district, as the case may be, to make such connection and secure the desired outlets only on condition, however, that he, they or it, shall first at their own cost and expense make the necessary enlargement of the canals and drains, with which it is proposed to make connections and such increased capacity shall be amply sufficient to carry any increase of water that may be caused by such connections without danger to said canals and drains or to lands adjacent thereto.

The work of enlarging such canals and drains shall be done under the supervision and direction of the engineer of the initial district, whose salary shall by order of the county court be paid by the person, company, corporation or district doing such work to secure connection, as aforesaid. When the work of enlarging the initial canals and drains is fully complete to the satisfaction of the said engineer, he shall make a report to the county court, under his official certificate, showing the kind and character of work

done and to what extent any of the canals and drains have been enlarged, and shall show that the increased capacity of the same is sufficient to carry any excess of water that may be added thereto by reason of such connection, and the engineer shall as a part of his report show the number of days he was actually employed in supervising said work, and also show the amount due him for such services, and on the approval of such report the court shall make an order authorizing the connections desired with such canals and drains, on payment of the amount shown to be due the engineer by said report.

Sec. 50. The drainage commissioners shall make an annual report of their acts and doings as such commissioners and file the same with the clerk of the county court on or before the first day of January of each year, which report shall show in detail the kind, character and amount of work done in the district, the cost of same and the amount paid out on orders, and for what purpose paid, and other data necessary to show the condition of improvements made under the provisions of this act.

Sec. 51. The drainage commissioners are hereby empowered and authorized to employ counsel to represent such district in the preparation of any contract or the conducting of any proceedings in or out of court, and to be the legal adviser of such drainage commissioners, upon such terms and for such fees as may be agreed upon by them and approved by the county judge, and such commissioners shall draw a warrant or warrants in payment for such legal services.

Sec. 52. Neither the county judge or any county commissioner or drainage commissioner nor the drainage engineer shall be directly or indirectly interested for themselves or as agents for any one else in the contract for the construction of any work to be performed by such drainage district, and if said officers or either of them shall, directly or indirectly, become interested in any contract for such work, or in any fee paid by such drainage district whereby he shall receive any money consideration or other thing of value, he shall be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail for not less than six months nor more than one year.

Sec. 53. All drainage districts established under this act may, by and through the drainage commissioners, sue and be sued in all courts of this State, in the name of such drainage district,

and all courts of this State shall take judicial notice of the establishment of all such districts.

Sec. 54. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 55. The fact that many counties and districts of Texas are anxious to organize drainage districts and are in great need of drainage, and there is now no law under which such district can be properly formed, constitutes an emergency and an imperative public necessity, that the constitutional rule requiring bills to be read on three several days be suspended, and also that this act take effect from and after its passage, and it is so enacted.

And find it correctly enrolled, and have this day, at 9:30 o'clock a. m., presented same to the Governor for his approval.

MASTERSON, Chairman.

Committee Room,  
Austin, Texas, March 18, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 18, "An Act to provide for acquiring by purchase or condemnation about fourteen acres of land, being a part of and adjoining the San Jacinto battle grounds, and fronting upon the navigable waters of Buffalo Bayou, or San Jacinto Bay; and providing for fencing, beautifying and improving the lands of the San Jacinto battlefield, now owned or hereafter acquired by the State of Texas, the same to be designated by name as 'San Jacinto State Park'; making an appropriation therefor, and declaring an emergency."

Be it enacted by the Legislature of the State of Texas:

Section 1. That it is necessary for the public use that the State of Texas own about fourteen acres, more or less, of land on the site of the battlefield of San Jacinto in addition to and which adjoins the lands heretofore acquired by the State of Texas under the provisions of Chapter 106, General Laws of Texas, passed at the Regular Session of the Twenty-fifth Legislature, approved May 6, 1897, and of Chapter 140, General Laws of Texas, passed at the Regular Session of the Twenty-fifth Legislature, approved May 23, 1899, the land to be so acquired under the provisions of this act, lying and fronting upon the navigable waters of Buffalo Bayou, it being necessary for the State of Texas to own

and possess said land that access may be had to said lands from the water front, and in order to properly protect and preserve the San Jacinto battlefield.

Sec. 2. That upon the taking effect of this act, or as soon thereafter as practicable, the Governor shall appoint three commissioners, who shall enter into a bond made payable to the Governor of Texas and his successors in office, in the sum of five thousand (\$5000) dollars, conditioned that they will well and truly discharge their duties as such commissioners, and make due report to the Governor of their action; provided that said commissioners shall serve without compensation, and provided further, that the joint action of two members thereof shall be sufficient on all matters properly coming before them.

Sec. 3. It shall be the duty of said commissioners to purchase the land which is adjacent to the lands now owned by the State of Texas, known as the San Jacinto battlefield, and fronting upon the navigable waters of Buffalo Bayou, in amount about fourteen acres, more or less. Said commissioners are hereby authorized to pay for said land whatever they shall consider a fair and reasonable market value of same; provided the price to be agreed upon therefor shall not exceed the market value of similarly situated lands in the same vicinity. Should said commissioners for any reason, fail to agree with the owner or owners of said lands or any portion thereof, they shall at once take steps to condemn the same, in the name of the State of Texas, and in order to effect this purpose, it shall be the duty of said commissioners to cause to be stated in writing, fully describing the real estate or property sought to be taken, the name of the owner or owners thereof and the residence of such owner, if known, and file such statement with the county judge of Harris county. Upon the filing of the statement provided for in this section, it shall be the duty of said county judge in term time or vacation to appoint three disinterested freeholders and qualified voters of Harris county as special commissioners to assess the damages to accrue to the property by reason of such condemnation. The special commissioners so appointed to assess such damages shall in their proceedings be governed and controlled by the laws in force in reference to the condemnation of the right of way for railroad companies and the assessment of damages therefor, and the proceedings shall be in accordance with such

law, the State of Texas occupying the position of the railroad company, and all laws in reference to the applications for the condemnation of the right of way, for railroad companies and the assessment of damage thereof, and the proceedings shall be in accordance with such law, the State of Texas occupying the position of the railroad company, and all laws in reference to the applications for the condemnation for right of way of railroad companies, including the measure of damages, the service, actual or constructive, on the property owner, the right of appeal and the like, not inconsistent with other provisions of this act, shall apply to the application by the State, in these proceedings, but it is specially provided that in the event of condemnation proceedings the damages assessed for the taking of any tract or parcel of land shall in the discretion of the commissioners herein provided for be deemed excessive and greater than a reasonable and adequate compensation therefor, said commissioners shall decline and refuse to pay the same, and in such event the State of Texas shall pay the court costs of such proceedings, and no further action thereunder shall be taken.

Sec. 4. Before any purchase or condemnation of any land shall be consummated under this act, a proper and complete abstract of the title thereto shall be procured by said commissioners and presented to the Attorney General and shall be examined and approved by him, showing, in his opinion, in whom the legal title thereto is vested, and upon such approval of the title by the Attorney General, then, in the event either of purchase by agreement or by condemnation, the commissioners appointed shall make an application in writing, and under oath, addressed to the Treasurer of the State of Texas, stating the amount of land to be acquired, from whom acquired, how acquired, and the price to be paid therefor, and when such application has been approved by the Governor, it shall be a sufficient warrant, and the Treasurer is hereby required to pay the same, and each of them so made with the provisions and limitations of this act, and the appropriation hereby made, and said commissioners shall then take proper conveyances or evidences of title placing the title to said land in the State of Texas and pay the owner or owners thereof.

Sec. 5. Such reasonable and necessary expenses as may be incurred by the commissioners personally, and in the employment of engineers and surveyors as

may be necessary in carrying out the provisions of this act, shall be presented in writing and under oath to the Governor, and if approved by him as reasonable and correct, shall be audited as other claims and paid out of the appropriations herein made. Said commissioners shall on the completion of their services herein provided for, and not later than the first day of December, 1908, make a full report to the Governor with an itemized statement of all expenditures and all acts done and performed under this act; whereupon, if their duties as such commissioners have been wholly performed, they shall be discharged and their commissions expire.

Sec. 6. The Governor shall, as soon as practicable after the taking effect of this act, and every two years thereafter, appoint three resident citizens of the State, who shall be known as "San Jacinto State Park Commissioners," and whose duties shall be to advise with and assist the Superintendent of Public Buildings and Grounds in the improvement, care and preservation of the lands now owned and hereafter acquired by the State, known as the San Jacinto battlefield; provided, that one or more of said commissioners may, in the discretion of the Governor, be selected from the patriotic organization known as San Jacinto Chapter, Daughters of the Republic of Texas, or from any kindred organization; provided, further, that said commissioners shall serve without compensation.

Sec. 7. It shall be the duty of said commissioners, acting with the advice and consent of the Superintendent of Public Buildings and Grounds, to cause to be erected upon a site by them selected, a keeper's cottage and other necessary buildings; to arrange for or employ a keeper who shall reside upon the grounds and who shall be clothed with all the powers and authority of a peace officer of the county for the purposes of caring for and protecting the property of the State; to provide the necessary teams, implements and other utensils for the use of such keeper and other employes in the work of beautifying, improving and protecting said grounds; to cause to be erected around, about and upon said grounds such fence and fences as shall, in the judgment of the commissioners and Superintendent of Public Buildings and Grounds, serve the best interests of the State in the care and protection of its property; to provide for and outline a plan, diagram and design of the work to be done from time to time, copies of which shall be kept in

the office of the Superintendent for reference, and to do any and all things necessary to be done, with the intent and purpose of beautifying, improving and protecting the State's interest therein.

Sec. 8. Such reasonable and necessary personal expenses as may be incurred by said three commissioners in the performance of their duties in this behalf, and in the employment of landscape gardeners, surveyors, foresters, mechanics, employes, materials, or upon contracts, which shall be or become necessary in carrying out the provisions of this act, shall be presented in writing and under oath to the Governor, and when approved by him as reasonable and correct, shall be audited as other claims and accounts for State purposes, and shall be paid out of the appropriation herein made; provided, that the appropriation herein made for the several purposes shall not be drawn upon for improvements to the extent of jeopardizing the purchase, condemnation or acquirement of land mentioned in Section 1 of this act.

Sec. 9. The lands now owned and hereafter acquired by the State, commonly called the San Jacinto battlefield, shall hereafter be known and styled "The San Jacinto State Park," and, with the exceptions, reservations and limitations herein mentioned, the said San Jacinto State Park shall be under the care and direction of the State Superintendent of Public Buildings and Grounds. Said Superintendent and the commissioners shall jointly endeavor to improve, preserve and protect the lands and property within and connected with said San Jacinto State Park.

Sec. 10. That for the several purposes mentioned in this act, the sum of twenty-five thousand (\$25,000) dollars, or so much thereof as shall be necessary is hereby appropriated out of any money in the State Treasury not otherwise appropriated.

Sec. 11. The rapid rise in value of river frontage land along Buffalo Bayou, and the deplorably neglected condition of the graves of our heroic dead on San Jacinto battlefield create an imperative public necessity, that the constitutional rule requiring bills to be read on three several days, be suspended, and that this act shall take effect from and after its passage, and it is so enacted,

And find it correctly enrolled, and have this day, at 11:30 o'clock a. m., presented same to the Governor for his approval.

MASTERSON, Chairman.